IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2507 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
FEBRUARY 27, 2007.

Heard Shri Marpakwar, learned counsel for the petitioner and Shri Kakade, learned AGP for the respondents.

Shri Marpakwar, learned counsel states that the petitioner was employed as Stenographer on daily wages awaiting nomination of duly selected candidate by the Subordinate Selection Board. The petitioner was then terminated. The petitioner challenged that termination before Labour Court by filing ULP Complaint. Labour Court dismissed his complaint. Thereafter he filed another complaint before the Industrial Court pointing out violation of Section 25-H of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). He contends that as and when work of Stenographer is available on daily wages, Respondents No. 1 & 2 are duty

bound to give preference to the petitioner as per his standing in the seniority list. He states that this aspect is totally lost sight of by the Industrial Court which has held that as the petitioner did not challenge dismissal of ULP Complaint by the Labour Court further, his complaint before the Industrial Court was barred by principles of res judicata.

The learned AGP has invited attention to impugned order and stated that the Industrial Court has found that the present respondents have not engaged any fresh Stenographer and only employee who came through Subordinate Selection Board was provided work. He contends that therefore the ULP Complaint is even otherwise rightly dismissed by the Industrial Court.

After hearing parties, it is apparent that in view of Section 25-H of the Act, as and when the work of Stenographer becomes available, temporarily or on daily wages with present respondents, they have to give it to the employees who have done that job earlier on daily wages as per their standing in the seniority list. Hence, before providing such work to the totally stranger or outsider, the

respondents shall offer the same to employees on waiting list or to the present petitioner. If the work is refused by the present petitioner then only the respondents shall be free to give it to some other person.

In view of this position and clarification, I find that anxiety expressed by the petitioner in the matter is taken care of. Writ Petition is disposed of. There shall be no order as to costs.

JUDGE

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